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FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

NOV 08 2012

OFFICE OF
MANAGING DIRECTOR

Bruce C. Maduri, President
Genesis Communications I, Inc.
4300 W. Cypress Street
Tampa, FL 33607

Re: Waiver Request (Financial Hardship; 47 C.F.R.
§ 1.1166)

Licensees/Applicants: Genesis Communications I,
Inc. and Genesis Communications of Tampa Bay,
Inc.

Stations w/Facility ID #: WHOO (54573), WAMT
(15877), WIXC (54505), WMGG (67135), WHBO
(41383), WWBA (51971), and WHQ239 (54573)

Fees: Fiscal Year (FY) 2010 Regulatory Fees

Date Request Filed: Sep. 13, 2011

Date Regulatory Fees Paid: (Not paid)

Regulatory Fee Amount: \$ 22,500.00

Fee Control No.: RROG 11-00013953

Dear Mr. Maduri:

This responds to Licensees' *Request*¹ for a waiver of the Fiscal Year (FY) 2011 regulatory fees on the basis of financial hardship for the seven above-listed Stations.² The Commission's records indicate that Licensees paid portions of the fees due for Stations WAMT, WIXC, WHOO and WHQ23, but incurred late payment fees and charges for Stations WHBO, WWBA, and WMGG. Licensees' *Request* was received September 13, 2011, after August 14, 2011, the date the fees were due. Accordingly, under 47 C.F.R. § 1.1166,³ and for the reasons discussed below, we dismiss and, in the alternative, deny Licensees' *Request*. The regulatory fees plus the statutorily required penalties are due.

Licensees assert that Genesis Communications, Inc. is a small family owned broadcast company serving central Florida. They also assert that a waiver is in the public interest "due to the fact that [Licensees] employ more local talk show hosts with diverse backgrounds and viewpoints and local news anchors dedicated to our local markets than any other company in

¹ Letter from Bruce C. Maduri, president, Genesis Communications, Inc., 4300 W. Cypress St., Tampa, FL 33607 to FCC Audio Bureau, FCC (Aug 9, 2011)(*Request*) (The Request was received at the Commission's mail room on September 13, 2011.).

² The *Request* listed six stations, but did not specifically identify WHQ239.

³ 47 C.F.R. § 1.1166(c) Petitions for waiver of a regulatory fee must be accompanied by the required fee and FCC Form 159. Submitted fees will be returned if a waiver is granted. Waiver requests that do not include the required fees or forms will be dismissed unless accompanied by a petition to defer payment due to financial hardship, supported by documentation of the financial hardship.

[Licensees'] coverage areas."⁴ Licensees included "the latest financial statement and tax returns" titled "Genesis Communications, Inc. 09-10, Income Statement with 2 Year Comparison For the Six Months Ending June 30, 2011" (*Income Statement*) and Starter Enterprises, Inc., d/b/a Genesis Communications 2010 U.S. Income Tax Return for an S Corporation, Extension Granted to 09/15/11 (*Starter 1120S*) (unsigned and undated). However, Licensees did not clarify the relationship of either Genesis Communications, Inc. or Starter Enterprises, Inc., d/b/a Genesis Communications with its two Florida corporations, Genesis Communications I, Inc. and Genesis Communications of Tampa Bay, Inc., which are the subjects of the *Request*. In Licensees' presentation, each of the named entities is identified as a corporation, thus they are presumed to be separate and distinct corporations, each with a discrete existence to be treated independently from one or the other.⁵ Even so, it is not certain that either of the entities named in the headings of the two financial documents are, indeed, legal corporations. For example, records at the office of the Secretary of the State of Georgia, show that under Georgia law, on August 26, 2011, Starter Enterprises, Inc. was administratively dissolved and its certificate of authority revoked. Moreover, we are unable to find evidence that Genesis Communications, Inc. is a legal entity properly registered in either Florida or Georgia. Accordingly, Licensees failed to provide clear information relevant to their financial status, this despite the fact that Licensees' are responsible for the completeness and accuracy of the information presented.⁶ Even so, we considered Licensees' documents in the context of the *Request*.

In establishing a regulatory fee program, the Commission recognized that in certain instances, payment of a regulatory fee might impose an undue financial hardship upon a licensee. Such fees may be waived, reduced or deferred, but only upon a showing of good cause and a finding that the public interest will be served thereby.⁷ The Commission has narrowly interpreted its waiver authority to require a showing of compelling and extraordinary circumstances that outweigh the public interest in recouping the Commission's regulatory costs.⁸ Fee relief may be granted based on asserted financial hardship, but only upon a documented showing that payment of the fee will adversely impact the licensee's ability to serve the public.⁹ "Mere allegations or documentation of financial loss, standing alone," do not suffice and "it [is] incumbent upon each regulatee to fully document its financial position and show that it lacks sufficient funds to pay the regulatory fee and to maintain its service to the public."¹⁰ In reviewing a showing of financial hardship, the Commission relies on a range of financial documents including a licensee's balance sheet and profit and loss statement (audited, if available), a cash flow projection for the next twelve months (with an explanation of how calculated), a list of their officers and their individual compensation, together with a list of their highest paid employees, other than officers, and the amount of their compensation, or similar information. It is on this information that the

⁴ *Request*.

⁵ 1 William Meade Fletcher, *Cyclopedia of the Law of Corporations* §§ 26, 31 (2012).

⁶ See *Bartholdi Cable Co., Inc. v. FCC*, 114 F.3d 274, 280 (D.C. Cir. 1997) ("petitioner . . . has the 'burden of clarifying its position' before the agency."). See also 47 C.F.R. § 1.16 (An applicant is responsible for the continuing accuracy and completeness of information furnished.).

⁷ 47 U.S.C. § 159(d); 47 C.F.R. § 1.1166. See also Implementation of Section 9 of the Communications Act, Assessment and Collection of Regulatory Fees for Fiscal Year 1994, *Report and Order*, 9 FCC Rcd 5333, 5344 (1994), *recon. denied*, 10 FCC Rcd 12759 (1995).

⁸ 9 FCC Rcd at 5344 ¶ 29.

⁹ 10 FCC Rcd at 12761-62 ¶ 13.

¹⁰ *Id.*

Commission considers on a case-by-case basis whether the station lacks sufficient funds to pay the regulatory fee and maintain service to the public.¹¹ Thus, for example, even if a station loses money, any funds paid to principals and deductions for depreciation or amortization are considered funds available to pay the fees.

Licensees have the burden¹² of demonstrating that a waiver or deferral would override the public interest, as determined by Congress, that the government should be reimbursed for the Commission's regulatory action. For the reasons discussed, below, we find that Licensees did not present compelling and extraordinary circumstances that outweigh the public interest in recouping the Commission's regulatory costs. The problem with Licensees' *Request* is that it fails to demonstrate how the submitted documents pertaining to Genesis Communications, Inc. and Starter Enterprises, Inc. relate to Licensees and how these records establish the requisite level of financial hardship that shows that payment of the fees will adversely affect both Licensees' ability to serve the public.

First, as earlier noted, Licensees failed to connect the *Income Statement* and *Starter 1120S* with each of the six stations. Rather than those unrelated documents, Licensees should have furnished relevant information specific to each Licensee, *e.g.*, a balance sheet, cash flow projection for the next twelve months (with an explanation of how calculated), a list of each Licensee's highest paid employees, other than officers, and the amount of their compensation, and similar information.

Next, the *Income Statement*, even if associated with the Licensees, does not illuminate financial hardship and whether such payment, partial or complete, will adversely impact the Licensees' service to the public. Instead, the *Income Statement* provides only information concerning the profitability of Genesis Communications, Inc. during two specific six-month periods, and nothing concerning the six-month period from July through December in 2011. Moreover, if Licensees intended that the documents reflect the entire year's income and expenses, they failed to present evidence to permit an extrapolation.

Moreover, the *Starter 1120 S* is incomplete because Licensees failed to include the explanatory Statements, and they failed to relate Starter Enterprises, Inc.'s reported business income and loss for tax purposes to Licensees' ability to serve the public. Even so, inconsistencies diminish the value of the information on both the *Income Statement* and the *Starter 1120S*. For example, there is an unexplained difference of [REDACTED] between amounts in the same category as salaries deducted on *Starter 1120S* and reported on the *Income Statement* (which, in this instance, we doubled to project the annual category expenses). Specifically, \$971,186 was deducted for salaries and [REDACTED] for officers' compensation on the *Starter 1120 S*, but only \$679,257.80 for the year [REDACTED] (for six months) was deducted on the 2010 *Income Statement*.

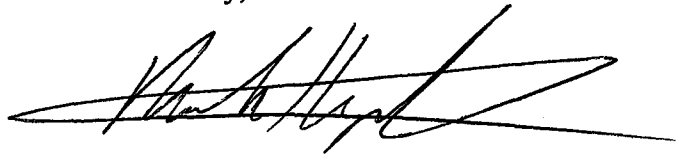
¹¹ *Id.*

¹² *Id.*

Finally, Licensees' assert they have "loyal dedicated employees, [but they are] by no means 'out of the woods' [and they] moved from rented office space to a transmitter site building, partnered with other local news agencies . . . and engaged in many other economies."¹³ This does not show that payment of the fees for each of the stations will adversely impact each Licensee's ability to serve the public. Accordingly, we deny the *Request*.

Payment of \$22,500.00 for the FY 2011 regulatory fees plus late payment charges is now due. The regulatory fees for each station must be filed together with a Form FCC 159 (copy enclosed) within 30 days from the date of this letter. If the licensees fail to pay the full amount due by that date, the statutory penalty of 25% of the unpaid fee,¹⁴ and interest and applicable additional penalties required by 31 U.S.C. § 3717 will accrue from the date of this letter, and under the law,¹⁵ the Commission will initiate collection proceedings. If you have any questions concerning this matter, please contact the Revenue & Receivables Operations Group at (202) 418-1995.

Sincerely,



Mark Stephens
Chief Financial Officer

Enclosure

¹³ *Request*.

¹⁴ 47 U.S.C. § 159(c)(1). See 9 FCC Rcd at 5346, ¶ 35 ("the petitioner will have 30 days to [pay the fee] in order to avoid the assessment of penalty charges and the invocation of any other available remedy. The filing of a petition for reconsideration will not toll this 30-day period.").

¹⁵ See 47 C.F.R. § 1.1901, *et seq.*



FCC Audio Bureau
Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

Received & Inspected
SEP 13 2011
FCC Mail Room
RECEIVED

SEP 14 2011
Financial Operations
Center

August 09, 2011

Subject: Waiver of FCC Fees due to financial hardship

This letter is a request for a waiver of the regulatory fees for Genesis Communications I, Inc. and Genesis Communications of Tampa Bay, Inc. due to financial hardship. In the history of Genesis, we have had to request a waiver once before, in 2010. The company has been in existence and in good standing with the public and the FCC since 1988. The radio stations this request pertains to are Call Signs: [REDACTED], [REDACTED], [REDACTED], [REDACTED], and [REDACTED]. The total fees due on August 14th, 2011 is \$22,500.00.

Genesis Communications is a small broadcast company competing with the largest broadcasters in the country. We are the only independently owned, privately held company that covers the I-4 Corridor of Central Florida. It is in the public interest that the company receives the waiver due to the fact we employ more local talk show hosts with diverse backgrounds and viewpoints and local news anchors dedicated to our local markets than any other company in our coverage areas.

All Genesis stations are located in the state of Florida which has one of the worst housing markets and higher than average unemployment compared to the country at large. While we are optimistic and are fortunate to have a number of loyal, dedicated employees, our company is by no means "out of the woods". Through these trying times, we have moved from rented office space to a transmitter site building, partnered with other local news agencies, partnered with a local rancher to graze animals on our tower sites and engaged in many other economies in an all out effort to sustain and emerge in working condition as economic times improve for the sake of our audience and our staff.

Enclosed please find the latest financial statement and tax returns for your review to confirm the situation. Your consideration of this matter is greatly appreciated.

Best Regards,

A handwritten signature in dark ink, appearing to read "B. Maduri".

Bruce Maduri
President

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